



DELAWARE NUTRIENT MANAGEMENT

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The Delaware Nutrient Management Commission Minutes of the Full Commission Meeting Held August 8, 2006

In attendance:

<i>Commission Members Present</i>	<i>Others Present</i>
W. Vanderwende, Chair	M. Cooke, DAG
D. Baker	K. Foskey
B. O'Neill	C. Roberts
T. Keen	S. Kepfer
K. Blessing	C. Keen
R. Baldwin	J. Schneider
J. Manchester	J. Hall
E. Lewandowski	J. Timmons
A. Johnson	K. Bunting-Howarth
<i>Commission Members Absent</i>	B. Coleman
C. Solberg	M. Santiago-Aponto
C. Larimore	J. Campagnini
R. Sterling	M. Brown
C. West	P. Sample
M. Adkins	S. Hollenbeck
<i>Ex-officios Present</i>	C. Fifer
W. Rohrer	T. Ferguson
J. Llewellyn	
M. Scuse	

This meeting was properly notified and posted as required by 29 Del. C. §10004 et al.

Call to Order/Welcome:

Chairman B. Vanderwende called the meeting to order at 7:00 p.m. and welcomed everyone in attendance. Without a quorum at the start of the meeting it is necessary to table the approval of the minutes and action items. In order to have a quorum one additional Commissioner needs to arrive.

Discussion Items:

Inland Bay Pollution Control Strategy Update (K. Bunting-Howarth):

B. Vanderwende introduced K. Bunting-Howarth to provide an update on the Inland Bay Pollution Strategy (attached to minutes). K. Bunting-Howarth noted that she is willing to meet with on a one-on-one basis for those who would like to know learn detailed information as to how the strategy was formed and the scientific support.

The update was discussed in detail. Specifics can be found in the slideshow presentation which is attached to the minutes.

Approval of Minutes:

E. Lewandowski motioned to approve the July 11, 2006 Full Commission meeting minutes as corrected. B. O'Neill seconded the motion, which passed unanimously.

Discussion and Action Items:

Review and Act on Draft Regulations for January 1, 2-7 Nutrient Management Mandate:

E. Lewandowski noted the Rules and Regulations subcommittee was charged with establishing a method for mandating Nutrient Management planning after January 1, 2007. The intention is to bring in individuals that are not Early Cooperators and those that were not notified during the 5-year 20% phase-in process.

E. Lewandowski reported the Rules and Regulations approved to submit for approval to the Full Commission the 7/13/06 Draft Language for January 1, 2007 Mandate deadline (attached to minutes). The draft regulations allow for the opportunity to those individuals who have not been notified under the 5-year 20% phase-in.

E. Lewandowski motioned to approve the regulations as presented. T. Keen seconded the motion which passed unanimously.

Review and Act on Draft Regulations for Nutrient Handling Around Impervious Surfaces and Winter Application:

E. Lewandowski noted the Rules and Regulations subcommittee to draft regulations for nutrient handling around impervious surfaces and winter application of fertilizer during the colder months, specifically 6.0, Nutrient Handling Requirements. The regulations as presented:

- Prohibit application on impervious surfaces such as sidewalks, roads, etc
- Requires any spillage be removed the same day.
- Prohibits application on snow or frozen covered ground for a 24 hour period
- Prohibits application of fertilizers from December 1, thru February 15 with the exception of recommendation by a Nutrient Management Consultant
- Includes the prohibition of application of organic fertilizers on snow or frozen ground for a 24 hour period

J. Manchester shared his concerns. In order to cover the objective of reducing nutrient input into waters the Commission should make the regulation as broad as possible to include commercial fertilizers as defined and organic fertilizers.

J. Manchester motioned to amend the regulations presented as follows:

6.1 The application of Nitrogen and Phosphorus based ~~commercial~~ fertilizers except liquid animal manure shall be prohibited by anyone holding certification or required to be certified pursuant to 3 Del.C. 2242 and section 4.0 herein, when one of the following conditions exist:

6.3 The application of ~~organic fertilizers~~ liquid animal manure to any surface area covered by snow or frozen for a 24 hour period or greater is prohibited by anyone holding certification or required to be certified pursuant to 3 Del.C. 2242 and section 4.0 herein.

To discuss the item, **E. Lewandowski seconded the motion.**

B. Rohrer reported that the motion may be disruptive to the cause. Nutrient Management Planning Regulations hold farmers to a standard, but lawn care companies are only required to be certified. The reason the regulation was introduced

was to hold the lawn care companies to a standard that prevents nutrient application in the middle of the winter and on sidewalks. B. Rohrer reported the motion goes against the intent. T. Keen noted agriculture needs to be protected also. J. Manchester noted that 6.2.1.2 allows this. M. Scuse conferred with T. Keen. B. O'Neill noted the intention is to create regulations for the urban section. He further stated farmers have done a lot. J. Timmons shared his thoughts with data and concerns with winter application.

Discussion ensued concerning application of fertilizer in the winter. B. Rohrer noted definitions of Commercial Inorganic Fertilizer and Organic Fertilizer have been added to the draft regulations.

M. Cooke noted the draft regulations presented is the beginning of the regulatory process. If regulations are approved they will be presented to the Secretary and then published in the Registrar of Regulations, September 1. The public comment period is 30 days and two Public Hearings have been scheduled. During the Full Commission meeting in October, comments will be considered in order to make comments deemed necessary. Approved regulations will become effective approximately October 1. If comments are substantive they need go back for public comment.

D. Baker noted his concern is in reference to the 24 hour period (6.1.2). He recommended approving the regulations as presented. Discussion ensued concerning possible language in order to address this concern.

With a motion on the table, B. Vanderwende called for a vote. **One vote was for (J. Manchester) and eight was against. The amendment did not pass.**

J. Manchester motioned to amend the regulations presented as follows:

6.1.3 The date of application is between December 1 and ~~February~~ March 15.

J. Manchester noted the average air temperatures in Sussex County in November is 50°, in December is 41.1°, in January is 36.4°, in February: 38.9° and in March 45.6°. He further noted the air temperature is warmer than the soil temperature. Based on his calculations dates should be adjusted as amended.

B. Vanderwende asked for a second. **Hearing not second, the motion is denied**

J. Manchester motioned to amend the regulations presented as follows:

6.1 The application of Nitrogen and Phosphorus based commercial inorganic fertilizers shall be prohibited by anyone holding certification or required to be certified pursuant to 3 Del.C. 2242 and section 4.0 herein, when one of the following conditions exist: and

6.1.1 The surface area of application is impervious such as sidewalks, roads and other paved areas and the misdirected commercial inorganic fertilizer is not removed on the same day of application;

B. O'Neill seconded the motion which passed unanimously.

E. Lewandowski noted the majority of the Rules and Regulations subcommittee is satisfied and wanted to move forward.

B. Vanderwende called for a vote on the original motion as amended, **which passed unanimously.**

B. Rohrer identified the Planning Timeline for the regulations (attached to minutes). He noted that Public Hearings have been scheduled on 9/26/06 in the DDA conference room and 9/28 in the Gumboro Fire Hall.

Review and Act on Draft Non-Agriculture BMP Booklet:

B. Rohrer reported the Technology Subcommittee met and reviewed the Draft Non-Agriculture BMP Booklet (attached to minutes).

He provided a highlight of the document and stated he will produce and distribute the document.

Review and Act on Perdue AgriRecycle Participation with Alternative Use Relocation:

B. Rohrer reported the Technology Subcommittee discussed Perdue AgriRecycle's participation in the Relocation Program. B. Rohrer provided detail of the discussion and provided details of the Relocation Program (attached to minutes).

T. Ferguson of Perdue AgriRecycle provided details of their operation. He reported Sussex Count Planning approved the request of their change. B. Rohrer noted the Nutrient Management Program audited the facility of the operation.

B. Rohrer noted the alternative use projects are approved on a case-by-case basis. Therefore, he respectfully requested the approval of the Commission.

T. Keen motioned to approve Perdue AgriRecycle as an alternative use. R. Baldwin seconded the motion which passed unanimously.

B. Rohrer reported a strategy in place as how to fund the additional funds necessary for the future.

Review and Act on Comments Regarding June 30, 2006 EPA CAFO Regulations:

B. Rohrer referred to the Draft EPA comments dated 8/8/06 (attached to minutes) and provided a background. B. Rohrer reported an extension was requested and approved thru 8/30/06. After a discussion of details of the draft the following changes were made:

D. Baker motioned to approve the changes. E. Lewandowski seconded the motion which passed unanimously.

Review and Act on Comments Budget for Research, Demonstration and Relocation:

B. Rohrer reported seven research projects were approved and one was tabled. The biological litter treatment project was tabled as it was dependent of the award of funding from the National Fish and Wildlife Grant. The grant was not approved.

The second project that was tabled was the Poultry Litter project. The first year was approved for \$35,000. Funding was being considered for the second year. Since NRCS funded the second year, funding is no longer necessary. B. Rohrer thanked NRCS.

B. Rohrer reported B. Malone was awarded a \$20,000 grant for Poultry Litter Revitalization. Since the data was not valid it was discontinued. B. Malone incurred no more than \$1,000 and asked the Commission to meet the obligation.

J. Manchester motioned to meet the obligation, not to exceed \$1,000. T. Keen seconded the motion which passed unanimously.

B. Rohrer reported \$26,000 available in the Research budget. He further reported a Planning subcommittee meeting will be convened to discuss the additional money.

B. Rohrer reported funds have been carried over from planning. He asked for approval to transfer \$350,000 from planning to relocation. B. Rohrer reported the funding in place is ample to meet the planning need.

E. Lewandowski motioned to transfer \$350,000 from planning to relocation.

D. Baker noted this item has not been addressed in a Budget Subcommittee meeting. B. Vanderwende stated it had not, but a Budget Subcommittee was called at 5 p.m. this evening. He further stated B. O'Neill was the only who reported. He noted C. Larimore, Chair of the Budget Subcommittee has been consulted and is aware of the need for a transfer. B. Rohrer did not specifically ask if she was comfortable in transferring \$350,000. T. Keen commented she was also in attendance at the last Technology Subcommittee in which this topic was addressed. D. Baker wanted to be sensitive to the fact that C. Larimore is not present.

D. Baker seconded the motion which passed unanimously.

Subcommittee Reports: NONE

B. Vanderwende presented a plaque in recognition of his input into the committee. He further noted he created a sense of stability. B. Rohrer thanked C. Fifer for all of his work.

Administrator's Report:

Complaints: There have been three informal complaints since the July meeting and there are two open informal complaints.

Budget: Refer to the Administrator's Report attached.

Nutrient Management Planning: 91,956 total acreage to date with 81,504 plans (Private) and 10,452 plans (Public) for 2006.

Nutrient Management Relocation: 123,811 total tons relocated to date with 7,375 for 2006.

Nutrient Management Audits: Refer to the Administrator's Report attached.

Certification: There are 2,040 certifications.

CAFO Update: Refer to Administrator's Report attached.

20% Mandate for 2006: Refer to the Administrator's Report attached.

Education and Outreach: Refer to the Administrator's Report attached.

Freedom of Information Act Request: Refer to the Administrator's Report attached.

Public Comments:

B. Rohrer introduced J. Hall, Director of NRCS.

Next Meeting:

The next meeting of the Full Commission is scheduled for September 12, 2006 at 7:00 pm.

Adjournment:

Chairman Vanderwende adjourned the meeting at 9:45 p.m.

Approved,

W. Vanderwende, Chairman

WRR/mrp